

**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	File No. EB-02-CF-277
	)	
Faith Mountain Communications, Inc.	)	NAL/Acct. No. 200232340001
WRRL	)	
Rainelle, West Virginia	)	FRN: 0007-2317-80

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released:** June 19, 2002

By the District Director, Columbia Office, Enforcement Bureau:

**I. Introduction**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Faith Mountain Broadcasting, Inc. ("Faith") has apparently violated Section 11.52(a)<sup>1</sup> of the Commission's Rules ("Rules"), by failing to install Emergency Alert System ("EAS") equipment. We conclude that Faith is apparently liable for a forfeiture in the amount of eight thousand dollars (\$8,000).

**II. Background**

2. On April 25, 2002, an agent from the Commission's Columbia, Maryland office conducted an EAS inspection at broadcast station WRRL in Rainelle, West Virginia. The agent found no EAS equipment installed and operating at the station. The station manager, Allen Whitt, informed the agent that the station did not have any EAS equipment installed since Faith purchased the station in February of 2001.

3. On May 8, 2002, the Columbia Office issued a Notice of Violation to Faith for violation of Section 11.52(a) of the Rules. In response by letter dated May 20, 2002, Faith indicated that EAS equipment is on order.

**III. Discussion**

4. Section 11.52(a) of the Rules requires all broadcast stations to install and operate EAS equipment during their hours of operation. The EAS provides national, state, and local authorities a means for immediate communications with the public to provide information during emergencies. Broadcast stations must transmit national level EAS messages and tests.

5. Based on the evidence before us, we find that Faith willfully<sup>2</sup> violated Section 11.52(a) of the Rules by failing to install and operate EAS equipment. *The Commission's Forfeiture Policy*

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<sup>1</sup> 47 C.F.R. § 11.52(a).

<sup>2</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he

## Federal Communications Commission

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*Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) (“*Forfeiture Policy Statement*”)<sup>3</sup>, sets the base forfeiture amount at \$8,000 for failure to install and have operational EAS equipment. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 (“Act”), as amended,<sup>4</sup> which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. The record reveals that Faith does have an overall history of compliance. However, the violation is egregious. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case and applying the inflation adjustments, we believe that an eight thousand dollar (\$8,000) monetary forfeiture is warranted.

### IV. Ordering Clauses

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act<sup>5</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>6</sup> Faith is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of eight thousand dollars (\$8,000) for willfully violating Section 11.52(a) of the Rules.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Faith SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200232340001, and FRN 0007-2317-80.

9. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200232340001.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices

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term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ....”  
*See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>3</sup>47 C.F.R. § 1.80.

<sup>4</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. §§ 0.111, and 0.311.

**Federal Communications Commission**

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("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>7</sup>

12. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Faith Mountain Broadcasting, Inc. at H.C. 61, P.O. Box 383, Danese, WV 25831.

FEDERAL COMMUNICATIONS COMMISSION

Charles C. Magin  
District Director  
Columbia Office

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<sup>7</sup> See 47 C.F.R. § 1.1914.